

CHAPTER 51

COPPER THEFT ORDINANCES AND TRESPASS ON PUBLIC UTILITY PROPERTY

H.F. 299

AN ACT relating to the unlawful possession of or entry upon specified personal and public utility property, and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 714.27 Copper theft — ordinance authorized — penalty.

1. The governing body of a political subdivision in which copper theft has been reported may consider the adoption of a copper theft ordinance requiring a salvage dealer to maintain complete, accurate, and legible records in the English language of all purchases and receipt of salvaged materials. Such records shall be maintained and located at the place of business of the salvage dealer for a minimum of one year from the date of purchase or receipt by the salvage dealer.

2. The ordinance may require a salvage dealer to maintain one or more of the following records:

a. The identity of the person from whom the salvaged material was received or purchased, including name and address; date of birth; Iowa driver's license number, Iowa nonoperator's identification card number, or social security number in conjunction with photo identification; sex, age, height, and race.

b. The vehicle license plate number of the vehicle that delivered the salvaged material to the salvage dealer, if applicable.

c. The date and hour of the purchase or receipt of the salvaged material.

d. A reasonably accurate inventory and description of the salvaged material obtained.

e. The value of or amount paid for the salvaged material.

f. The weight or other measurable quantity of the salvaged material.

g. From whom and at what time and place the salvaged material was obtained by the person from whom it was purchased or received, if known.

h. The date and manner of disposition by the salvage dealer of the salvaged material by each article or in bulk.

i. The name and address of the person to whom the salvaged material was sold or otherwise disposed of.

3. a. (1) In the event that a political subdivision issues a license or permit to a salvage dealer for the operation of a salvage business, the ordinance may provide for the suspension, revocation, or nonrenewal of the license or permit in the event the ordinance is violated by the salvage dealer. A suspension, revocation, or nonrenewal shall not take effect without notice delivered to the licensee or permittee in the regular mail addressed to the licensee or permittee at the licensed premises a minimum of ten days prior to a date set for hearing before a magistrate or district associate judge. The notice shall inform the licensee or permittee of the time, date, and place of hearing, the purpose of the hearing, and shall set out briefly the reasons for the hearing.

(2) A decision regarding whether to suspend or revoke a license or permit, or deny its renewal, shall be at the discretion of the magistrate or district associate judge, based upon the circumstances surrounding the violation and its severity.

(3) A licensee or permittee whose license or permit or renewal has been revoked or denied because of a violation of this section shall not be eligible for another such license or permit for a period of one hundred eighty days after the revocation or denial.

b. In the event a political subdivision does not issue a license or permit to a salvage dealer for the operation of a salvage business, the ordinance may provide for such penalty provision as the governing body of the political subdivision may deem appropriate.

Sec. 2. Section 716.7, subsection 2, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Entering or remaining upon or in public utility property without lawful authority or without the consent of the public utility that owns, leases, or operates

the public utility property. This paragraph does not apply to passage over public utility right-of-way by a person if the person has not been notified or requested by posted signage or other means to abstain from entering onto the right-of-way or to vacate the right-of-way.

Sec. 3. Section 716.7, subsection 3, Code 2011, is amended to read as follows:

3. The term “*trespass*” shall not mean entering upon the property of another for the sole purpose of retrieving personal property which has accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property. This subsection does not apply to public utility property where the person has been notified or requested by posted signage or other means to abstain from entering.

Sec. 4. Section 716.7, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. For purposes of this section, “*public utility property*” means any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure owned, leased, or operated by a public utility and that is completely enclosed by a physical barrier of any kind. For the purposes of this section, a “*public utility*” is a public utility as defined in section 476.1 or an electric transmission line as provided in chapter 478.

Sec. 5. Section 716.7, subsection 6, Code 2011, is amended by adding the following new paragraphs:

NEW PARAGRAPH. *d.* Representatives of the Iowa utilities board, the federal energy regulatory commission, or the federal communications commission who enter or remain upon or in public utility property while engaged in the performance of official duties.

NEW PARAGRAPH. *e.* Employees of a public utility who enter or remain upon or in public utility property while acting in the course of employment.

Sec. 6. Section 716.8, subsection 2, Code 2011, is amended to read as follows:

2. Any person committing a trespass as defined in section 716.7, other than a trespass as defined in section 716.7, subsection 2, paragraph “f”, which results in injury to any person or damage in an amount more than two hundred dollars to anything, animate or inanimate, located thereon or therein commits a serious misdemeanor.

Sec. 7. Section 716.8, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Any person who commits a trespass as defined in section 716.7, subsection 2, paragraph “*f*”, commits a class “D” felony.

Approved April 13, 2011